

AMENDED IN SENATE JUNE 22, 2016  
AMENDED IN ASSEMBLY FEBRUARY 29, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1553**

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**Introduced by Assembly Member Irwin**

January 4, 2016

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An act to amend Sections 4875 and 4877 of the Welfare and Institutions Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1553, as amended, Irwin. Savings plans: qualified ABLE program.

Existing federal law, the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act), encourages and assists individuals and families to save private funds for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a qualified ABLE program established and maintained by a state, as specified.

Existing law conforms to these federal income tax law provisions relating to the ABLE Act under the Personal Income Tax Law and the Corporation Tax Law, as provided. *Existing law defines "eligible individual" for these purposes.* Existing law establishes in state government the ABLE program trust for purposes of implementing the federal ABLE Act. Existing law also establishes the ABLE Act Board and authorizes the board to adopt regulations to implement the program.

*The existing State Contract Act, in connection with contracts entered into by any state agency for services to be rendered to the state, prohibits*

*a person, firm, or subsidiary thereof that has been awarded a consulting services contract from submitting a bid for, or being awarded a contract for, the provision of services, the procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. A willful violation of these provisions is a misdemeanor, under other provisions.*

*This bill would ~~authorize the ABLE Act Board to enter into a multistate contract with an account servicer in order to implement these provisions and to enter into a long-term contract with an account servicer, as provided.~~ modify the definition of “eligible individual.” The bill would also exempt the ABLE Act Board from the above prohibition in the State Contract Act for a contract with an account servicer but would require such a contract to be publicly disclosed in a manner specified by the board prior to entering into the contract.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 4875 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 4875. For purposes of this chapter:
- 4 (a) “ABLE account” or “account” means the account established
- 5 and owned by a designated beneficiary pursuant to this chapter
- 6 for the purpose of meeting the qualified disability expenses of the
- 7 designated beneficiary of the account.
- 8 (b) “Administrative fund” means the fund used to administer
- 9 this chapter.
- 10 (c) “Board” means the California ABLE Act Board established
- 11 under this chapter.
- 12 (d) “California ABLE Program Trust” or “ABLE program trust”
- 13 means the trust created pursuant to this chapter.
- 14 (e) “Designated beneficiary” means the eligible individual who
- 15 established an ABLE account and is the owner of the account.
- 16 (f) “Eligible individual” means an individual who is eligible
- 17 under the program for a taxable year if *blindness or disability*
- 18 *occurred before the date on which the individual attained 26 years*
- 19 *of age, and during that taxable year; year either of the following*
- 20 *criteria are satisfied:*

1 (1) ~~the~~ The individual is entitled to benefits based on blindness  
2 or disability under Title II or XVI of the federal Social Security  
3 Act, and that blindness or disability occurred before the date on  
4 which the individual attained 26 years of ~~age~~; or age.

5 (2) ~~a~~ A disability certification, as defined in the federal ABLE  
6 Act, with respect to the individual is filed pursuant to the  
7 requirements set forth in the federal ABLE Act.

8 (g) “Federal ABLE Act” means the federal Stephen Beck, Jr.,  
9 Achieving a Better Life Experience Act of 2014.

10 (h) “Investment management” means the functions performed  
11 by a manager contracted to perform functions delegated by the  
12 board.

13 (i) “Investment manager” means a manager contracted to  
14 perform functions delegated by the board.

15 (j) “Program fund” means the program fund established by this  
16 chapter, which shall be held as a separate fund within the California  
17 ABLE Program Trust.

18 (k) “Qualified ABLE Program” or “program” means the program  
19 established by this chapter to implement the federal ABLE Act  
20 pursuant to Section 529A of the Internal Revenue Code.

21 (l) “Qualified disability expenses” means any expenses related  
22 to the eligible individual’s blindness or disability that are made  
23 for the benefit of an eligible individual who is the designated  
24 beneficiary, including the following expenses: education, housing,  
25 transportation, employment training and support, assistive  
26 technology and personal support services, health, prevention and  
27 wellness, financial management and administrative services, legal  
28 fees, expenses for oversight and monitoring, funeral and burial  
29 expenses, and other expenses, which are approved by the Secretary  
30 of the Treasury under regulations and consistent with the purposes  
31 of the federal ABLE Act.

32 SEC. 2. Section 4877 of the Welfare and Institutions Code is  
33 amended to read:

34 4877. (a) There is hereby created an instrumentality of the  
35 State of California to be known as the California ABLE Program  
36 Trust.

37 (b) The purposes, powers, and duties of the California ABLE  
38 Program Trust are vested in, and shall be exercised by, the board.

39 (c) The board, in the capacity of trustee, shall have the power  
40 and authority to do all of the following:

1 (1) Sue and be sued.

2 (2) (A) Make and enter into contracts necessary for the  
3 administration of the ABLE program trust, and engage personnel,  
4 including consultants, actuaries, managers, counsel, and auditors,  
5 as necessary for the purpose of rendering professional, managerial,  
6 and technical assistance and advice.

7 (B) *Subdivision (a) of Section 10365.5 of the Public Contract*  
8 *Code shall not apply to a contract with an account servicer. Any*  
9 *contract with an account servicer that would have been prohibited*  
10 *by that subdivision shall be publicly disclosed in a manner specified*  
11 *by the board prior to entering into the contract.*

12 (3) Adopt a corporate seal and change and amend it from time  
13 to time.

14 (4) Cause moneys in the program fund to be held and invested  
15 and reinvested.

16 (5) Accept any grants, gifts, appropriations, and other moneys  
17 from any unit of federal, state, or local government or any other  
18 person, firm, partnership, or corporation for deposit to the  
19 administrative fund or the program fund.

20 (6) Enter into agreements with designated beneficiaries or  
21 eligible individuals to establish and maintain an ABLE account.

22 (7) Make provisions for the payment of costs of administration  
23 and operation of the ABLE program trust.

24 (8) Carry out the duties and obligations of the ABLE program  
25 trust pursuant to this chapter and the federal ABLE Act pursuant  
26 to Section 529A of the Internal Revenue Code and federal  
27 regulations issued pursuant to that code, and have any other powers  
28 as may be reasonably necessary for the effectuation of the purposes,  
29 objectives, and provisions of this chapter.

30 (9) Carry out studies and projections in order to advise  
31 designated beneficiaries or eligible individuals regarding present  
32 and estimated future qualified disability expenses and the levels  
33 of financial participation in the ABLE program trust required in  
34 order to assist designated beneficiaries or eligible individuals.

35 (10) Participate in any other way in any federal, state, or local  
36 governmental program for the benefit of the ABLE program trust.

37 (11) Promulgate, impose, and collect administrative fees and  
38 charges in connection with transactions of the ABLE program  
39 trust, and provide for reasonable service charges, including  
40 penalties for cancellations.

1 (12) Set minimum and maximum investment levels.

2 (13) Administer the funds of the ABLE program trust.

3 (14) Procure insurance against any loss in connection with the  
4 property, assets, or activities of the ABLE program trust.

5 (15) Procure insurance indemnifying any member of the board  
6 from personal loss or liability resulting from a member's action  
7 or inaction as a member of the board.

8 ~~(d) (1) The board may enter into a multistate contract with an~~  
9 ~~account servicer in order to implement this chapter.~~

10 ~~(2) The board may enter into a long-term contract with an~~  
11 ~~account servicer that allows the account servicer to recoup costs~~  
12 ~~from administering ABLE accounts in the first years of~~  
13 ~~administration.~~

14 ~~(3) Subdivision (a) of Section 10365.5 of the Public Contract~~  
15 ~~Code does not apply to this subdivision.~~

16 (e)

17 (d) The Treasurer shall, on behalf of the board, appoint an  
18 executive director, who shall not be a member of the board and  
19 who shall serve at the pleasure of the board. The Treasurer shall  
20 determine the duties of the executive director and other staff as  
21 necessary and set his or her compensation. The board may authorize  
22 the executive director to enter into contracts on behalf of the board  
23 or conduct any business necessary for the efficient operation of  
24 the board.